



**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE  
STATE OF CALIFORNIA**

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Order Instituting Rulemaking to Continue  
Electric Integrated Resource Planning and  
Related Procurement Processes.

Rulemaking 20-05-003

**RESPONSE OF SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E) TO SAN  
DIEGO COMMUNITY POWER AND CLEAN ENERGY ALLIANCE'S PETITION FOR  
MODIFICATION OF THE D.22-05-015 ON MODIFIED COST ALLOCATION  
MECHANISM FOR OPT-OUT AND BACKSTOP PROCUREMENT OBLIGATIONS**

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Dated: **November 28, 2022**

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In accordance with Rule 16.4(f) of the California Public Utilities Commission’s (“Commission”) Rules of Practice and Procedure, Southern California Edison Company (“SCE”) respectfully submits this response to San Diego Community Power (“SDCP”) and Clean Energy Alliance’s (“CEA”) (collectively, the “Joint CCAs”) Petition for Modification of the D.22-05-015 on Modified Cost Allocation Mechanism for Opt-Out and Backstop Procurement Obligations, dated October 28, 2022 (“Petition”).

**I.**

**INTRODUCTION**

The Joint CCAs’ Petition requests that the Commission modify Ordering Paragraph (“OP”) 4 of Decision (“D.”) 22-05-015 to provide non-investor-owned utility (“IOU”) load-serving entities (“LSEs”) with load migrated from the IOUs since 2019 a second opportunity to purchase additional resource adequacy (“RA”) from the IOUs’ D.19-11-016 contracts priced at the Market Price Benchmark (“MPB”) based on the revised 2023 year-ahead (“YA”) load forecasts submitted to the Commission prior to the effective date of D.22-05-015.

In D.22-05-015, the Commission provided a “*one-time provision*” allowing non-IOU LSEs with new load migrated from the IOUs since 2019 to enter into bilateral agreements with

the relevant IOU to purchase their share of the system RA from the IOU's D.19-11-016 procurement at the MPB calculated in accordance with D.19-10-001.<sup>1</sup> The Commission specifically stated "this is a one-time provision (recognizing that the benefits will be allocated and paid for over the life of the contracts) based on the relative load shares of the IOU and non-IOU LSE as of the effective date of this decision, and based on an LSE's possible reliance on the language in D.19-11-016 addressing procurement required by that decision only. Any load migration subsequent to this decision will be addressed through the regular [Power Charge Indifference Adjustment ('PCIA')] process."<sup>2</sup>

SCE has already implemented this one-time requirement. In accordance with D.22-05-015's requirement that the IOUs submit Tier 1 advice letters with all such agreements by no later than October 1, 2022, SCE submitted Advice 4872-E on October 3, 2022<sup>3</sup> seeking Commission approval of eight RA confirmation agreements with LSEs in its service area for the sale of approximately 69 MW of system and flexible RA from its D.19-11-016 contracts.<sup>4</sup> Advice 4872-E was approved on November 9, 2022 effective October 3, 2022. The Petition notes that both SDCP and CEA have also executed RA contracts with San Diego Gas & Electric Company ("SDG&E") based on their load share at the time D.22-05-015 was issued.<sup>5</sup>

Now, the Joint CCAs request modification of OP 4 of D.22-05-015 so they have a second opportunity to purchase RA from SDG&E's D.19-11-016 contracts at the MPB based on their load shares for 2023 as reflected in their revised 2023 YA load forecasts. The proposed modifications in the Petition would also change the requirements for the IOUs and non-IOU LSEs in SCE's and Pacific Gas and Electric Company's service territories. The Joint CCAs

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<sup>1</sup> D.22-05-015 at OP 4 (emphasis added).

<sup>2</sup> *Id.* at 41-42.

<sup>3</sup> Because October 1, 2022 was a Saturday, SCE submitted Advice 4872-E on the next business day, or October 3, 2022. *See* Commission Rule of Practice and Procedure 1.15.

<sup>4</sup> The system RA and flexible RA capacities will vary throughout the delivery terms of the RA confirmation agreements based on the different underlying resource online dates and contract end dates.

<sup>5</sup> *See* Petition at 7.

claim that using the revised 2023 YA load forecasts submitted to the Commission prior to the effective date of D.22-05-015 “clarifies differing interpretations in an equitable manner and considers new circumstances in the energy market.”<sup>6</sup> The Petition should be rejected.

The Commission was clear in D.22-05-015 that the opportunity to purchase RA from the IOUs’ D.19-11-016 contracts at the MPB was a one-time opportunity based on the non-IOU LSE’s load as of the effective date of the decision and that subsequent load migration would be addressed through the PCIA process. SCE has already implemented OP 4 of D.22-05-015 and sold RA to interested non-IOU LSEs in its service territory based on their actual load as required by D.22-05-015. Moreover, SCE has already included the remaining RA from its D.19-11-016 contracts in its 2023 YA RA filing. The Joint CCAs have not provided evidence of any changed circumstances that justify modification of D.22-05-015 and their requested modification would undermine market certainty. The Commission should deny the Joint CCAs’ request.

## II.

### **THE COMMISSION SHOULD DENY THE PETITION**

#### **A. The Commission Was Clear That D.22-05-015 Provided a “One-Time” Opportunity for Non-IOU LSEs to Purchase RA from the Relevant IOU’s D.19-11-016 Contracts Based on the Non-IOU LSE’s Load as of the Effective Date of the Decision**

The Joint CCAs argue that D.22-05-015 is unclear as to which load can be used for OP 4’s one-time provision of RA to non-IOU LSEs and that the Joint CCAs “interpret D.22-05-015, OP 4’s language to allow for flexibility in determining the load share used for D.19-11-016 allocations.”<sup>7</sup> However, OP 4 of D.22-05-015 explicitly states that “[t]his is a *one-time provision that shall be based on the load of the non-IOU LSE, as mutually agreed between the IOU and the non-IOU LSE, as of the effective date of this decision* and shall not include any

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<sup>6</sup> *Id.* at 14.

<sup>7</sup> *Id.* at 8.

charges for time periods prior to the effective date of this decision.”<sup>8</sup> OP 4 refers to the load of the non-IOU LSE as of the effective date of the decision, not the load forecast for the next year. This is supported by other language in the decision, stating, “this is a *one-time provision* (recognizing that the benefits will be allocated and paid for over the life of the contracts) *based on the relative load shares of the IOU and non-IOU LSE as of the effective date of this decision*, and based on an LSE’s possible reliance on the language in D.19-11-016 addressing procurement required by that decision only. Any load migration subsequent to this decision will be addressed through the regular PCIA process.”<sup>9</sup> Similarly, Conclusion of Law 5 is clear that the Commission was referring to the load served as of the effective date of the decision, not the load forecast for 2023: “To address the significant load migration that has taken place since the issuance of D.19-11-016, the LSEs with the new load should have the option to receive a *one-time allocation* of the RA capacity, *based on load served on the effective date of this decision*, to be paid for at the MPB determined in the PCIA pursuant to D.19-10-001, beginning as of the effective date of this decision.”<sup>10</sup>

The Joint CCAs claim that the phrase “as mutually agreed between the IOU and the non-IOU LSE” in OP 4 is a non-restrictive clause that allows the use of any agreed upon load forecast.<sup>11</sup> However, OP 4’s reference to “the load of the non-IOU LSE, as mutually agreed between the IOU and the non-IOU LSE, as of the effective date of this decision” simply means that the load of non-IOU LSE as of the effective date of the decision should be a mutually agreed number between the IOU and the non-IOU LSE. Moreover, even if OP 4 is read to allow an IOU and non-IOU to mutually agree to use a different load forecast, that does not justify modifying D.22-05-015 to mandate the use of the revised 2023 YA load forecast.

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<sup>8</sup> D.22-05-015 at OP 4 (emphasis added).

<sup>9</sup> *Id.* at 41-42 (emphasis added).

<sup>10</sup> *Id.* at Conclusion of Law 5 (emphasis added).

<sup>11</sup> *See* Petition at 9.

The Joint CCAs argue that use of the revised 2023 YA load forecasts is appropriate because the 2023 YA load forecast process was well underway prior to the issuance of D.22-05-015 and because the Joint CCAs' revised YA load forecasts were mutually agreed upon with SDG&E and submitted to the Commission prior to D.22-05-015's effective date.<sup>12</sup> But the fact that D.22-05-015 referred to the non-IOU LSE's load as of the effective date of the decision, rather than 2023 YA load forecast, despite that process being underway actually suggests that the Commission intended the allocations to be based on the non-IOU LSE's load as of May 19, 2022, not their load forecast for 2023. Additionally, while SCE also engages in the RA program's meet and confer process with non-IOU LSEs in its service territory to discuss load forecasts, not all LSEs choose to share their load forecasts with SCE and SCE does not have a mutually agreed upon revised 2023 YA load forecast with every individual non-IOU LSE in its service territory. Indeed, SCE does not have access to the confidential load forecasts of all non-IOU LSEs in its service territory. Therefore, it is not accurate to broadly characterize the revised 2023 YA load forecasts as mutually agreed upon between the IOU and the non-IOU LSE for all IOUs and non-IOU LSEs.

Further, the Joint CCAs' assertion that D.19-11-016 allocations based on the revised 2023 YA load forecasts align with D.22-05-015's guiding principles is without merit.<sup>13</sup> There is no evidence that allowing non-IOU LSEs to buy RA from the IOUs' D.19-11-016 contracts based on the revised 2023 YA load forecasts is more equitable or more in line with cost causation principles that determining shares based on load as of the effective date of the decision. In fact, the Commission noted in D.22-05-015 that this was "a one-time provision (recognizing that the benefits will be allocated and paid for over the life of the contracts) based on the relative load shares of the IOU and non-IOU LSE as of the effective date of this decision, and based on an LSE's possible reliance on the language in D.19-11-016 addressing procurement required by

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<sup>12</sup> See *id.* at 10.

<sup>13</sup> See *id.* at 11.

that decision only.”<sup>14</sup> As a one-time provision, the Commission was addressing load migration that had already occurred up to the effective date of the decision due to possible reliance on D.19-11-016, but the Commission also specifically found that “[a]ny load migration subsequent to this decision will be addressed through the regular PCIA process.”<sup>15</sup> The Commission recognized that load migration would continue to occur in the future and determined that would be addressed in the PCIA process. The Joint CCAs’ request to be given a second option to purchase RA at the MPB based on forecasted load migration for 2023 is contrary to the balance achieved by the Commission in D.22-05-015.

Finally, the Joint CCAs ignore the fact that the IOUs have already entered into RA contracts with non-IOU LSEs in reliance on the current decision. In the case of the Joint CCAs, a second allocation may give them additional RA at the MPB. However, it is possible that some non-IOU LSEs could have reduced load in their revised 2023 YA load forecasts compared to their actual load as of the effective date of D.22-05-015. In those cases, the Joint CCAs do not address whether such non-IOU LSEs would have an obligation to sell RA back to the relevant IOU at the MPB. It is not equitable or consistent with cost causation to only account for increases in load and not account for potential decreases in load.

**B. The Joint CCAs Have Not Provided Evidence of Changed Circumstances Justifying the Modification of D.22-05-015**

The Joint CCAs also argue that changed circumstances warrant their proposed modification to D.22-05-015.<sup>16</sup> In particular, the Joint CCAs assert that several of the barriers to near-term procurement identified in the IRP proceeding,<sup>17</sup> a severely constrained RA market, resource delays, and recent regulatory changes, among things, have materially impacted LSEs’

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<sup>14</sup> D.22-05-015 at 41-42.

<sup>15</sup> *Id.* at 42.

<sup>16</sup> *See* Petition at 11-13.

<sup>17</sup> *See* Administrative Law Judge’s Ruling Seeking Comments on Staff Paper on Procurement Program and Potential Near-Term Actions to Encourage Additional Procurement, R.20-05-003, September 8, 2022.

procurement obligations.<sup>18</sup> SCE does not dispute that LSEs are facing a difficult market environment with significant barriers to near-term procurement of new resources. However, several of the changed circumstances mentioned by the Joint CCAs occurred before the adoption of D.22-05-015. For example, the Joint CCAs cite D.19-06-026 updating the local RA trigger price, D.19-11-016 expressing concern over a tightening market and the need for new system RA starting in 2021, as well as several earlier decisions, all of which the Commission was aware of when it approved D.22-05-015.<sup>19</sup> The Joint CCAs also reference the emergency reliability effective planning reserve margin targets adopted in D.21-12-015, five months before D.22-05-015 was adopted, and changes to the RA program adopted in D.22-06-050, just one month after the approval of D.22-05-015 and which had been under consideration longer.<sup>20</sup>

The Joint CCAs have not established that changed circumstances in the energy market justify their requested modification to D.22-05-015. Given that the IOUs and non-IOU LSEs have already executed RA contracts and made RA filings based on the current language in D.22-05-015, changing the decision now would increase market uncertainty.

Lastly, the Joint CCAs refer to changes in their load that are specific to SDG&E's service territory.<sup>21</sup> SCE notes many of the events cited by the Joint CCAs occurred before the effective date of D.22-05-015 and are not changed circumstances.<sup>22</sup> The Commission should reject the Petition. However, if the Commission were to determine that any special circumstances associated with the Joint CCAs merit modification of D.22-05-015, the Commission should limit those modifications to SDG&E's service territory.

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<sup>18</sup> See Petition at 12-13.

<sup>19</sup> See *id.* at 12 n.26.

<sup>20</sup> See *id.* at 12-13.

<sup>21</sup> See *id.* at 3-4.

<sup>22</sup> See *id.*



**III.**

**CONCLUSION**

For all the foregoing reasons, the Commission should deny the Joint CCAs' Petition.

Respectfully submitted,

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